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OFFICE OF PETITIONS

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

In re Application of :
McAlister, et al. : DECISION ON PETITION
Application No. 10/764,619 :
Filed: January 26, 2004 :
Atty. Docket No.: 10121/00308 :

The decision is in response to the petition renewed under 37 CFR 1.137(b) filed January 23, 2006.

The petition under 37 CFR 1.137(b) is hereby GRANTED.

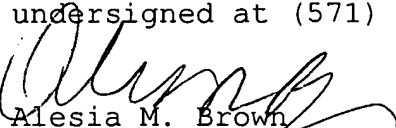
This application was became abandoned November 4, 2004 for failure to timely submit a proper reply to the non-final Office action mailed August 3, 2004. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed June 2, 2005. A petition under 37 CFR 1.181 was filed July 8, 2005 and dismissed January 13, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.


Alesia M. Brown
Petitions Attorney
Office of Petitions